

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: JOHNSON & JOHNSON TALCUM POWDER PRODUCTS MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION This document relates to: HILL et al. v. JOHNSON & JOHNSON et al. 3:18-cv-08344-FLW-LHG	MDL No. 2738 (FLW) (LHG) Hearing Date: Courtroom: 5E
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**PLAINTIFF LINDA HILL'S STATEMENT OF DISPUTED MATERIAL FACTS IN
SUPPORT OF HER RESPONSE IN OPPOSITION TO THE JOHNSON & JOHNSON
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56.1(a) of the Local Rules of the United States District Court for the District of New Jersey, Plaintiff, by undersigned counsel, respectfully submits the following Statement of Supplemental Material facts:

1. Linda Hill ("Ms. Hill") was diagnosed with ovarian cancer in 2013 after prolonged and extensive exposure to Johnson's Baby Powder ("JBP") and Shower to Shower ("STS"). (Shah Decl. Exhibit A, 1/20/2021 Deposition of Linda Hill ("Hill Dep.") 32:6-33:11, 53:8-16, 129:4-15)
2. Ms. Hill was diagnosed in North Carolina with Stage IIC ovarian cancer. *Id.* at 161: 1-4.
3. Ms. Hill first started applying JBP in Kansas as a young lady and continued to do so until she was diagnosed with ovarian cancer. *Id.* at 58:15-59:5, 69:10-22.
4. In August of 2016, Ms. Hill first discovered the risks associated with exposure to talcum powder and ovarian cancer. *Id.* at 22:18-20).

5. Before August of 2016, Ms. Hill believed JBP and STS to be safe to use on her body and was never warned by J&J that their talc products could cause ovarian cancer. *Id.* at 152:1-6.

6. J&J made representations to Ms. Hill that its talcum powder was “pure” and natural. *Id.* at 150:1-151:14.

7. Those representations made her “feel safe and secure” because “it’s, it’s natural, it’s good for you.” *Id.* at 152:1-6.

8. In fact, J&J sold Johnson’s baby powder labeled as “gently absorb moisture, helping skin feel comfortable. Our incredibly soft, hypoallergenic, dermatologist and allergy-tested formula glides over skin to leave it feeling delicately soft and dry while providing soothing relief.” (Shah Decl. Exhibit B., image of JBP).

9. The bottle of Shower-to-Shower tells consumers that the product causes the “ultimate freshness” and “pampers your skin.” (Shah Decl. Exhibit C. image of STS).

10. Ms. Hill relied on these representations that talc was safe for use on the body. (Shah Decl. Exhibit A. at 151: 1-152:6).

11. J&J has long been aware of the risk of ovarian cancer with talc products, and have long been aware that its talc products contain asbestos, yet it has refused to warn about the products. (Shah Decl. Exhibit D. Amended Expert Report of Laura M. Plunkett, Ph.D., DABT. June 30, 2021, page 83 -86 (citing (JNJ000260700), (P-1166), (P-55), (P-20), (P-115), (JNJ000404424 – 25), (JNJ000390337-339), and (P-374)).

12. In 1972, a report by the University of Minnesota alerted J&J to the presence of asbestos in STS. (Shah Decl. Exhibit E. JOJO-MA2546-01298).

13. Early on, J&J determined it was critical to recommend its own testing technique before the FDA adopted “more sophisticated techniques with higher levels of sensitization.” (Shah Decl. Exhibit F, JNJMX68_000009139).

14. It was important to J&J to keep the FDA from utilizing a “separation and isolation” technique using “concentration procedures” to detect asbestos because “there are many talcs on all markets which will be hard pressed in supporting purity claims.” (Shah Decl. Exhibit G, JNJMX68_000004346).

15. J&J in its own testing “deliberately have not included a concentration technique as we felt it would not be in worldwide company interests to do this.” (Shah Decl. Exhibit H, JNJNL61_000062953).

16. The FDA privately determined that J&J’s testing techniques do “not offer much assurance that cosmetic talcs are adequately tested for asbestos” (Shah Decl. Exhibit I, Kazan_FDA_FOIA 000068).

17. The FDA ultimately determined it lacked “the legal authority, the man power, and the money to adequately protect the public for potentially hazardous cosmetics” and was ultimately forced to rely on J&J to voluntarily implement its own inadequate testing techniques to determine the amount of asbestos. (Shah Decl. Exhibit J, JNJ000037743).

18. J&J’s fraud in hiding the presence of asbestos by designing a purposefully inadequate testing system was first laid bare to the general public in a December 14, 2018 Reuters

Article. (Shah Decl. Exhibit K, Lisa Girion, “Johnson & Johnson knew for decades that asbestos lurked in its Baby Powder” REUTERS, 12/14/2018).

19. In the late 1997, J&J retained a toxicology consultant, Dr. Alfred Wehner, who candidly informed J&J that its claims about the safety of talc were fraudulent. (Shah Decl. Exhibit L, JNJ000024462-JNJ000024463).

20. In an October 7, 2000, confidential memo J&J determined it would not “sh[y] away from a tough battle” and committed to an “unbending defense” of “the safety of talc’s use in cosmetic products.” (Shah Decl. Exhibit M, JNJ 000010808-000010812).

21. J&J continued to “vigorously defend” talc notwithstanding a safer alternative in cornstarch and despite pressure from gynecologists’ “concerns about life” with the continued use of talcum powder. (Shah Decl. Exhibit M, JNJ 000010808-000010812).

22. The strategy was to “maintain consumer confidence in cosmetics products that include talc,” “prevent a consumer scare and to allow the continued marketing of these products.” (Shah Decl. Exhibit M, JNJ 000010808-000010812).

23. On May 19, 2020, even as it pulled its talc products from the U.S. market, J&J stated it will “continue to vigorously defend the product” and “its safety.” (Shah Decl. Exhibit N, J&J Press Release 5/19/2020).

24. On December 03, 2019, J&J issued a press release titled "Company Investigation Confirms No Asbestos in Johnson's Baby Powder." (Shah Decl. Exhibit O, J&J Press Release 12/3/2019).

25. On April 27, 2020, J&J issued a press release that sought to cast doubt on this Court's *Daubert* Order noting that Plaintiffs' experts were deemed to have non-scientifically sound opinions. (Shah Decl. Exhibit P, J&J Press Release 4/27/2020).

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Respectfully submitted,

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